



**SHREWSBURY CONSERVATION COMMISSION  
SHREWSBURY, MASSACHUSETTS**

**MINUTES**

Regular Meeting: December 21, 2004 - 7:00 P.M.

Location: Selectmen's Hearing Room - Municipal Office Building

**Present:** John J. Ostrosky, Chairman  
Robert P. Jacques, Vice-Chairman  
Dorbert A. Thomas, Clerk  
Patricia M. Banks  
Kenneth F. Polito

**Also Present:** Brad Stone, Agent

Mr. Ostrosky opened the meeting at 7:00 P.M.

**1. Review and Approve Minutes**

The Conservation Commission approved the Minutes of November 16, 2004 as submitted.

**2. Signed bills.**

**3. Meetings and Hearings – 7:05 P.M.**

Mr. Ostrosky announced at the beginning of the hearings that the following projects have asked for continuances. *The Commission voted to allow these continuances to the regular scheduled meeting on January 18, 2005, at 7:05 P.M.:*

- 1) AvalonBay Communities, Inc., for rental apartment community, at 870-890 Hartford Turnpike
- 2) M.R. Real Estate, Inc. for single family home, at 46 Everett Avenue

**285-1248 Continued – Public Hearing regarding the Notice of Intent filed by Sage Investors, Inc. for the construction of a commercial building and parking lot at 360 Hartford Turnpike**

Attending the hearing was Eric Wilhelmson – from Hannigan Engineering, and Chris Christopher.

Mr. Wilhelmson said they have been able to negotiate with Mass. Highway Department and provide a more favorable driveway entrance which is located approximately right in the center of the frontage of the lot. He said by placing the access there, they have significantly reduced the amount of wetland filling in this section of the site. He said it does still require a filling right in the center of about 780 sq. ft. and provides access to the center of the lot where they are proposing a two-story 8600 sq. ft. building and associated parking. He said the driveway continues heading out towards the lot where there is a second wetland crossing of about 510 sq. ft. and that gives them access to the very rear of the lot for additional parking and another two-story building.

Mr. Wilhelmson said they are proposing to bring sewer to the site where previously they had septic system. He said by removing the septic system and utilizing the system in the street, they will be able to use more of the upland area of the lot, regrade it, redesign the stormwater flows to carry through a detention basin down in the very rear of the lot which they previously weren't developing in that area, and combined all the drainage into one large basin.

Mr. Wilhelmson said since they are just presenting this revised plan at this meeting, he would expect to give continuance to allow everybody to look at it and have Mr. Stone review the new drainage calculations.

Mr. Ostrosky asked Mr. Wilhelmson to go over the comparison of what they are proposing for office space (square footage wise) now versus before? Mr. Wilhelmson said it increased by quite a bit; there was around 5,000 sq. ft. of office space previously and they are up to two two-story buildings for a little over 16,000 sq. ft. now.

Mr. Ostrosky asked the comparison in the impervious parking spaces. Mr. Wilhelmson said it was probably close to the same amount of impervious area, as they had another large driveway proposed previously.

Mrs. Thomas asked why all of a sudden there is so much more building. Mr. Wilhelmson said it's for the same use, but with the relocation of the driveway, it allows them to make better use of the upland land. He said previously they had to make a big sweeping curve with the driveway which used up a lot of the area, and the building before was relatively small so they could fit some parking, the building, and still have the main access drive. He stated that by eliminating the big sweeping drive, they could put parking and a building there.

Mrs. Thomas asked if they were planning a replication for the crossings. Mr. Wilhelmson said yes, there is about 1290 sq. ft. of crossings and they are proposing about 2000 sq. ft. of replication.

Mrs. Banks asked how close the building was to the wetland. Mr. Wilhelmson said the building upfront is about 25 feet off the edge of the wetlands. He said the other building is about 50 feet away, and stated one parking lot is about 5 feet in the corner, and the closest point for the other parking lot is 25 feet away from the wetlands. Mrs. Banks commented that it wasn't the 30 feet that the Commission voted in their guideline policy.

Mr. Jacques said one thing he noticed is there seems to be a very dramatic reduction in the size of the detention basins. He commented that he didn't think the impervious area had changed much. Mr. Wilhelmson said the proposed detention basin, as opposed to the other detention basins, actually has an outflow structure in it, it's got a manhole with orifices in it to let the water out at different rates. He said the previous detention basins were just one large basin with a sub-drain which would just fill up and slowly empty through the sub-drain and not actually just empty slowly over time, so it allows having a smaller basin and regulating the flow more precisely that way.

Mr. Jacques commented that part of the impact of replacing all the surface area of these catch basins in the original proposal and replacing it with impervious area, is that the upland is almost entirely consumed by this impervious area. He said there's no buffer left on this property except for along the portion where the roadway was removed.

Mr. Wilhelmson said in the initial filing they had grading right up against the wetlands and in a lot of locations they had pulled it back at least 10 feet where they could to provide at least a little bit of upper end. He said they held to that 10 feet off the wetlands the majority of places especially around one of the buildings. He said in some areas it couldn't be avoided where there are the crossings and when they were getting up close in an area, but everywhere else they kept it as far away as they could. Mr. Jacques commented about having the two building and not just keeping with one.

Mr. Polito commented that one detention basin was eliminated but it was filled up with a larger building and asked why they couldn't keep the one building the same size as it was originally proposed, if it worked before. Mr. Wilhelmson said it had to do with cost. Mr. Polito commented that it seems that the curb cut does work better in eliminating the other side of fill, but the building could have been left the same size and if that one corner was reconfigured, it would have given more green space.

Mr. Polito commented that they are maximizing every square foot of the total area, and it would be nice, since it is a sensitive area, if something could be given back, which is what the Commission had asked before. He said they just seem to keep coming back with total coverage of the whole lot.

Mr. Ostrosky continued the hearing to January 18, 2005, at 7:05 P.M.

**285-1264      Continued – Public Hearing regarding the Notice of Intent filed by  
Pescaro Distributors for the construction of a culvert at Roberts Street**

Mr. Ostrosky commented that this hearing has been continued a number of months and noted that the Commission hasn't heard anything from the applicant.

The Commission voted to close this hearing, due to lack of information and communication.

**285-1296      Continued – Public Hearing regarding the Notice of Intent filed by George  
Harrington for the clearing of trees and brush at 731-735 Boston Turnpike**

Mr. Jacques presided as the Chairman, as Mr. Ostrosky and Ms. Banks were not in attendance at the initial hearing and will not be voting. George Harrington, the property owner, and David Crossman – the wetlands engineer, attended the hearing.

Mr. Crossman said there is a drainage ditch which is taking drainage off Route 9 and running it out to the back where the wetlands are located. He said this site is also an Endangered Species Habitat. He said during the course of the original filing they received a letter back from Natural Heritage stating that they felt the clearing of vegetation would adversely impact the endangered species habitat. He said after speaking with Mr. Harrington about what was actually being proposed, he said he spoke with John Ferguson at Natural Heritage, and they revised the plans after discussions with him.

Mr. Crossman said Mr. Harrington wanted some site view into the site from Route 9. He said the original plan called for the clearing of all vegetation right down to the wetland line, and said that was not Mr. Harrington's intent.

Mr. Crossman said they revised the plans to reflect that the slope itself leading down to the wetlands will only have trees cleared, there'll be no stumping, and then the area outside of the slope will actually be cleared. He said they discussed this with Natural Heritage and they are comfortable with that plan because they are leaving the brush around the wetland and the ditch itself.

Mr. Harrington said Mr. Crossman also presented to Natural Heritage that the water main discharge into that ditch was all run-off from Route 9, so it's not exactly spring water, it's contaminated with Route 9 oil, etc. Mr. Harrington commented that the ditch or pipe has probably been there since Route 9 was constructed. Mr. Jacques commented that at one point it was probably a good resource and now Route 9 has impacted it.

Mrs. Thomas asked the extent of the trees being cut down. Mr. Harrington said Mr. Stone has reviewed the area and he's the one that suggested that I present it to the Commission because there are quite a few trees there. He said the trees on the slope are smaller ones, but there are quite a few larger ones on the rest of the site he will cut down.

Mr. Jacques said he has some of the same reservations as he had at the first hearing. He said he could understand that they want the site more visible to be more marketable, but he said he's hopeful that at least at this stage, since there's no use pending, that there might be some compromise here rather than clear cutting within the buffer area. He said he thought they started that by stating they were going to remove the trees but not all of the brush.

Mr. Jacques said he hoped that whatever does get developed there can be some activities that can help maintain and/or enhances it environmentally, and said he would hate to do anything now that would compromise that. He said they should be able to have a place that serves the landowner's needs without totally modifying this environment, beyond being able to restore it later. He said he's not sure how clearly defined areas to be cleared are, and commented that he hasn't heard any real standards other than that which is going to apply to that little slope area which is 10-15 feet. Mr. Crossman explained the vegetation on the site.

Mr. Polito asked if Natural Heritage was receptive to the plan, even with the plan on cutting, and asked if the plan was to leave the low brush as is in the rest of the field. Mr. Crossman said Natural Heritage was receptive to the plan, and said on the slope they won't be taking any brush at all. Mr. Polito asked if on the designated area of the plan, if they are going to leave that in the same condition as the rest of the field where it's like a grassy area, and that would be the intent. Mr. Crossman said yes, and said there will be no excavation.

Mr. Polito asked if they would be installing haybales and silt fence. Mr. Crossman said no, they would just be cutting everything right to the ground, and there would be no loose soils.

Mr. Jacques officially closed the hearing.

**285-1299      Continued – Public Hearing regarding the Notice of Intent filed by Chris Muello for the construction of a commercial building at 824 Hartford Turnpike**

Mr. Jacques presided as the Chairman, as Mr. Ostrosky and Ms. Banks were not in attendance at the initial hearing and will not be voting. Attending the hearing was the engineer, Bob Murphy.

Mr. Murphy said since the last public hearing they have redesigned the site based upon comments by the Commission. He said the first issue is they moved the building out of the wetland area, and it meets the zoning requirements. He stated what they did was make the paved area in front of the building slightly narrower; it's 15 feet wide. He said this allows a truck to get all the way around the building.

Mr. Murphy said another item was to take out the stone retaining wall, and replace it with a self-sustaining block wall, which allows them to decrease the amount of wetland fill all along the wall area. He said they were close to 5000 sq. ft.; they reduced that down to 3350 sq. ft.

Mr. Murphy said the drainage is the same; they have not made any changes in the detention basin design. He said the actual impervious area has been reduced slightly.

Mr. Murphy said the main issue that changed on this site was the replication area. He said originally they were planning on replicating east of the site and they determined that there was really nowhere in that area to replicate. He said the site adjacent to this property had, in fact, previously filled some of this land, so it really wasn't an option. He explained that they went to the west of the site, along Route 20, and there is a considerable amount of area there to do the replication, so they've shown the replication area with the plant list to be closer and adjacent to the fill area.

Mrs. Thomas asked what was beyond the 15 feet paved area. Mr. Murphy said there is a berm that contains all the drainage and sends it to the east into the basin; then they have an area about three feet wide, which is a vegetated area. He said it goes to the top of a wall, so the berm is not the wall. He explained there are a few feet if someone wanted to walk along the edge, etc.; it's a vegetated slope; they did not want to have the water for drainage cascading along the wall. He said they put a berm along the edge of the pavement which contains the flow. Mrs. Thomas asked if the wall is the boundary of the wetland. Mr. Murphy said that was right and if looking at the top center of the plan, there is a profile of the wall, and right at the base of that wall, there is a haybale dike; that's the edge of the wetland area. He said the wall is about four to five feet high and is almost vertical; it's about 5 degrees off of vertical.

Mrs. Banks asked exactly how far away the building was from the wetland. Mr. Murphy said it is approximately 25 feet away from the filled wetlands. He said the southeast corner of the building is about a foot off the edge of the wetlands as it is now. He explained the history is the highway was built to the wetlands and they brought in fill and stones as a result of building the highway, and this is the edge of the fill area now. He said there's a stone edge there, but that area would be where the corner of the building is; it will be filled out about 15 feet.

Mr. Ostrosky asked if they had explored any other building types for that site. He commented that this building is 40 ft. x 100 ft., which really pushes into the wetland, and asked why not consider an alternate use where they might not have a construction storage building, which this is proposed to be, but something that would fit the site, rather than trying to alter the wetlands around the building. Mr. Murphy said the applicant wishes to use this site for this use, as he's in the construction/excavation business. He commented that this is the use that he is proposing, this is not a developer who wishes to lease the building to someone; the owner wishes to build and operate his business here.

Mr. Ostrosky asked the amount of replication that is being provided. Mr. Murphy said it is a little more than 1:1.

Mr. Jacques said he walked the site, and it was created as was stated by filling the wetlands, and now they want to make it a better site for them by filling it some more, and commented that this was problematic for him. He stated, in addition to that, the proposal to utilize it to this extent, ends up not meeting the Commission's 30-foot setback wishes, it results in a replication of about 1:1, which is much less than the Commission normally seeks.

Mr. Murphy said at the time this highway and area was done, there was no law. He commented as a technicality, it can't be said that it's a filled wetland because there really weren't laws before this. Mr. Jacques said he would concur that it was not illegally filled, but it was clearly filled. Mr. Murphy said the idea being that where this area has been altered, they can actually provide additional replication over and above what they are proposing in a manner that would tend to replicate or restore more wetlands – there's certainly enough room on the site to do it. Mr. Jacques commented that if they think that there is some proposal that suits the client, that would end up in a beneficial and a net gain, he suggested he propose it. He said he didn't view this current proposal as being that.

Mr. Polito asked if the site was serviced by town sewer. Mr. Murphy said yes both sewer and water. He said he was told by the client that the sewer was available there, and if not, they are not in a position to build a septic system there; sewer would have to be provided. Mr. Polito said he didn't think sewer was in front of the site, so there are no provisions for a septic plan. He said they need to find out if sewer is, in fact, at the site; Mr. Stone doesn't believe there is (at this time).

Mr. Murphy said this plan was not meant to be a septic system plan or deal with on-site sewerage disposal. He said if the sewer is not available, they are going to have to make it available because there is no intention to develop a septic system on this site. He said what they are showing is the sewer going out to Route 20. He said if it's not there and it is not made available, then the site is not going to happen, certainly not the way they have it on the plan.

Mr. Jacques asked Mr. Stone if he had a chance to review the plans, and he said yes.

Mr. Jacques officially closed the hearing.

**285-1311      Continued – Public Hearing regarding the Notice of Intent filed by AvalonBay Communities, Inc. for the construction of a 264-unit rental apartment community with associated grading, drainage, parking, access road and other appurtenances at 870-890 Hartford Turnpike**

Mr. Ostrosky continued the hearing to January 18, 2005, at 7:05 P.M.

**285-1308      Continued – Public Hearing regarding the Notice of Intent filed by Donald Ricker & Alfred St. Onge for the construction of a single family home at 550 South Street**

Attending the hearing was John Grenier – the engineer from J.M. Grenier Associates, Inc.

Mr. Grenier asked for a continuance of the hearing. Mr. Ostrosky continued the hearing to January 18, 2005, at 7:05 P.M.

**285-1317      Continued – Public Hearing regarding the Notice of Intent filed by  
Brendon Properties Three Realty Trust for the construction of a 45  
duplex building condominium development titled, “Adams Farm” at  
portions of 35, 58-80, 90, and 100 Cherry Street; 35 & 58 Gold Street and  
75 Memorial Drive**

Attending the hearing were James Tetreault – the engineer from Thompson and Liston, Kevin Giblin – the developer from Brendon Properties Three Realty Trust, and Charles McGregor – from Brendon Properties.

Mr. Tetreault said since the last hearing the Commission expressed a couple of concerns which they tried to address with a revised site plan that was submitted to the Town. He said one was getting additional detail in regard to phasing and construction sequence.

Mr. Tetreault said this site being a hillside, and the intended cutting areas are toward the top of the hill and the filling areas are in the areas of buildings 1 thru 6. He said the intention is to construct Adams Farm Road and Hamilton Circle which together total 12 acres of land; and which would amount to taking cut material from primarily Adams Farm Road toward the top and placing that material on Hamilton Circle. He said before proceeding to any other areas there would have to be permanent stabilization of areas specifically on Adams Farm Road. He said the immediate choices would be slopes behind units 25, 26, 40, and other such areas that wouldn't be altered in any future time or any building or driveway construction.

Mr. Tetreault said proceeding from that point after, the total alteration is under the phasing guideline of 12 acres, material would be taken from Independence Lane at the top of the hill. He commented that if at any time the development is approaching the 12 acre limit, they would have to show that additional areas are stabilized and taken care of so that exposed soils never exceed the limit based on the Town's phasing guidelines.

Mr. Tetreault said one of the comments from the Planning Board was regarding Independence Lane, as it runs across Constitution Drive, to change the name for one of them, so one will be called Patriot Lane.

Mr. Tetreault said the second point of concern raised by the Commission was to try and lessen the alteration of the riverfront areas, specifically at buildings 6 and 16. He said in the plans they revised the location of both buildings. He said they shifted building #6 so that it's mostly out of the outer riparian zone. He said on building #16 they revised the location of the turn-around circle at the end of this road. He said there are those changes and the change of the proposed pump station, which on the previous site plan was proposed to be in a new location. He said they are now proposing is that the pump station serving this site and other areas will be in the existing location off Cherry Street near the south corner of the South Meadow project; the existing pump station will have new pumps and other new infrastructure installed.

Mr. Tetreault said between the two changes of revising the two building locations and grading and taking away the new location of the pump station, they've reduced the alteration of the riverfront area of about 3,000 sq. ft. He said at this point and time, the only alterations in the inner riparian zone is a little bit of sewer easement, which goes down through the woods and then actually hits an existing trail.

Mr. Tetreault said it is the applicant's request that the Commission give him consideration for the off-site work which he is proposing in the upgrading of the pump station, to allow for some work to be within the outer riparian zone that he proposes. He said the existing circumstance in Cherry Street is that because of an underpowered pump station, they have difficulties with overflows at a couple of the manholes there, and those manholes are in close proximity to the perennial stream. He commented the applicant is going to upgrade and put in significantly more powerful pumps in the existing station to try and address this issue.

Mr. Giblin said they are pushing hard, and they got through the Planning Board to do the single phasing because there are big cuts and fills in the project. He said they are moving about 60,000 yards and they wanted to kind of get the cuts and fills out of the way, and stated in the whole project they would be disturbing about 18 acres.

Mr. Giblin said they are proposing a rolling phasing, which would start the main road all at once, and as they are building that road, they will stockpile the loam for other areas. He said they are not asking for waivers from the Town for construction of homes to build it faster; they just thought that the sitework, where there were so many cuts and fills, and with people living there and blasting, it would be better to do it all at once.

Mr. Giblin said another thing they did as a preventive measure is they're going to install 1,000 feet of 2-foot trench, and in that trench they're going to put stone, take material and build it up on the low side of the trench, and will germinate it immediately and fill the trench with stone. He said they are going to direct the water from the trenches into a temporary detention pond. He said they don't plan on this winter; or starting it first thing in the wet spring; they're going to wait and see what happens with the weather. He said they've agreed with the Planning Board, and the Town Planner, that they will start nothing until they've built those temporary erosion control measures, which is a little bit unusual for a project of this size.

Mrs. Thomas commented that they are on a hill, and they have to be very careful if they are going to open all that land up. Mr. Tetreault said they understand and explained the work areas and the inner riparian zone work, commenting that the rest of the construction is well outside. He also reviewed the inner and outer riparian zones.

Mr. Jacques asked why building #16 couldn't be rotated more; put it perpendicular to the road. Mr. Tetreault said they are under the restriction of trying to fit everything in within the overall context of the project economically. He said the primary restriction is, as a result of a resolution of a lawsuit with the abutter, the Collins', the agreement was that nothing would be within the proximity of Collins.



Mr. Jacques said his biggest issue is this sequencing and the exposure that he senses from the fill, the huge slopes, the large fills, and how carefully they have to be about watching the stabilization of these areas, and said he appreciates the added sensitivity that they have addressed in these matters.

Mr. Jacques asked Mr. Stone if this has been documented in a way that's enforceable to Engineering's satisfaction. Mr. Stone said he just received the revised plans with the revised language on it the day before this meeting. He said he's not 100% confident that he's got everything that he wants to see on it. Mr. Jacques commented, that in the end, what the Commission is going to want to see is some kind of release, as they've had with others, in terms of releasing building permits consistent with the stabilization that's been promised. He said the Commission should have some hook other than a cease and desist, to make sure that they are in a process that makes sense that stabilization occurs.

Mr. Giblin said they've asked for three units for model homes, and they've told the Planning Board that they won't ask for anymore building permits until they've germinate everything that's been disturbed. He said that's why they've changed their phasing, put down the temporary ravines and the earth berms on the other side of them, and they've agreed to seed and germinate everything prior to asking for building permits. He also said they could submit weekly or monthly reports to both Planning Board and Conservation. Mr. Jacques commented that this is the direction the Commission was looking for and they appreciate it.

Mr. Ostrosky continued the hearing to January 18, 2005.

**285-1316      Continued – Public Hearing regarding the Notice of Intent filed by M.R. Real Estate, Inc. for the construction of a single family dwelling with associated grading within a flood area t 46 Everett Avenue**

Mr. Ostrosky continued the hearing to January 18, 2005, at 7:05 P.M.

**285-1304      Public Hearing regarding the request for an Amended Order of Conditions filed by G & C Real Estate for the construction of a single family dwelling at 16 Brook Street, Lot 2**

Attending the hearing were Glenn Krevosky – the wetlands engineer, and Steven Greene. Mr. Krevosky said the applicant was requested to re-look at this plan and see if he could reduce the size of the house.

Mr. Krevosky commented that there have been a few revisions to the plan, and this latest revision is for the reduction of the house from 28 feet to 24 feet wide, and it's 15 feet off the wetland. He said they are keeping the stone and mortar wall three feet high at the wetland boundary, with a replicated wetland or a wetland created to compensate for the encroachment area, and the wall is one foot wide with winter berries to be planted along the wall.

Mr. Krevosky said part of the original total filing, including Lot #3, was to restore some of the altered wetlands that encroach onto this Lot #2 and also onto Lot #3.

Mr. Krevosky said they originally proposed that type of work in order to give something back as a natural wetland in an area that they would not encroach into. He said he has talked to his client and they are offering to put a conservation easement on this lot, including the wetlands that extend off of the lot.

Mr. Krevosky said they have talked to D.E.P. about the regulation of the work in the buffer zone. He said there are no performance standards as stated by D.E.P. for work in the buffer zone. He said they understand that the Commission has the policy of 30 feet. He said they understand when it was brought up at the last meeting that they created their own hardship by designing three house lots where there was originally one, and the client was originally looking for four. He commented that the wetlands on South Street preclude any building over there.

Mr. Krevosky commented that a conservation easement would be extended from Lot #2, which will be placed on the Deed, so everybody will know what is wetlands and what isn't wetlands. Mr. Ostrosky asked if that gave the public right of access. Mr. Krevosky said that easement can be written in any manner that the Commission wants. He said what it does as a recorded plan with metes and bounds is that anyone down the road, the Commission and the people buying this lot will know where the wetland boundary is.

Mr. Ostrosky commented that the Commission wants to try and get out of the policing business as much as possible, and pointed out that this was one lot, one house, and the Commission pointed that out right up front, and now it's come right back on the Commission; the Commission foresaw these problems, and now they're being told to compromise. He commented that the Commission is fighting for every little bit of open space in Shrewsbury as it is.

Mrs. Banks commented and expressed concern for building on this lot and agreed with Mr. Ostrosky on his comments.

Mr. Krevosky said very few lots, even in Shrewsbury, have conservation restrictions on them; it's not a tool used all that often, and I know in the past it wasn't used at all. He said other Towns are starting to use it. He said he felt with the stonewall there is another physical barrier that's built with mortar and stone, not something that is easy to take down. Mrs. Banks said people will tend to jump over the wall.

Mr. Ostrosky closed the hearing.

**RDA                      Public Meeting regarding the Request for Determination of Applicability  
filed by Rosemary Chaput to determine the boundaries of wetland  
resource areas at 0-16 Nelson Point Road**

Attending the hearing was Robert Murphy – the engineer. Mr. Murphy said the purpose of this Request for Determination is mainly to get an understanding as to the limits of the riverfront zone and the buffer zone of this property.

Mr. Murphy said looking at the USGS maps, there's a dark blue line that comes through towards this property on South Quinsigamond Avenue and it passes through this portion of Flint Pond onto the main lake. He said the assumption would be that this was the river zone following that dark blue line, and that was the question posed to me by the client.

Mr. Murphy said during the course of the summer, in a canoe, he went down along the edge of where the water from the perennial stream/brook enters Flint Pond, and the vegetation there is so thick you can't even begin to get into it; he couldn't find evidence of a stream, all he saw was water in the weeds. He said during the course of late summer, early fall, several times after heavy rainstorms, he walked in directly from South Quinsigamond Avenue where the stream passes underneath the road, and jumped across the hummocks in this area to determine where the impoundment starts.

Mr. Murphy said the plan before the Commission shows an area where the stream widens out considerably in a very short distance; it widens from ten feet wide to approximately 80 feet wide.

Mr. Murphy gave a little history of the area from the property owners. He said at one time there was a boat ramp in this portion of the pond and boats would come into this area; that doesn't happen now because it is heavily vegetated and the sediments from the stream and the vegetation growing in here.

Mr. Murphy said what the client proposes to do is to sell this property, and she has several people who have approached, but prior to doing that they want to know exactly what the limitations are relative to riverfront zone, edge of wetlands, buffer zone, etc. He said what is on the plan is based upon several site trips taking a look at the flow of water where he could see a visible flow of water, and sedimentation forming and the impoundment itself, the widening.

Mr. Murphy said essentially following the riverfront guidelines, he's taken a line perpendicular to the edge of the stream where it widens out, and called that the end of the riverfront zone. He said that zone itself is actually located within the bordering vegetated wetlands; the end result being there is no impact upon a riverfront zone if developing the main portion of Nelson Point.

Mr. Murphy said he has also shown the 100 foot buffer zone. He said there is a considerable amount of the property that's contained within that buffer zone, and said that would be subject to jurisdiction relative to 310 CMR for buffer zone areas.

Mr. Murphy said the main concern is to get a determination relative to the edge of the bordering vegetated wetlands, the edge of the riverfront zone, and the impoundment itself.

Mr. Ostrosky commented there are two issues, the BVW issue, but the riverfront issue could be a bigger impact to this site. He asked if he was trying to say that the riverfront area ends right at the entrance to the impoundment. Mr. Murphy said that was right. Mr. Ostrosky asked if what he was saying was the influence of riverfront, the 200 foot line, would be perpendicular to the bank at that point coming into the impoundment. Mr. Murphy said that was the policy of the D.E.P., and said, yes, to simplify it, and their basically looking for a determination.

Mr. Murphy said there is a large bordering vegetated wetlands area subject to flooding and in some cases it goes right down a very steep bank on the end, so there are several resource areas, but essentially all of them have a 100 foot buffer zone.

Mr. Stone said that as far as the BVW line goes, he agrees with it exactly as to the way it's flagged. He commented that the riverfront, in general, looks like it's where it should be on the plan, but he found it very difficult to really get a good sense of the entire surroundings. He said he did look at aerial photos through the Town's GIS program, and he couldn't really see a well defined channel in there. He said it's a tough call, but felt where it's shown is probably where it should be.

Mr. Jacques asked if something else should be done to make a clear determination. Mr. Stone said he would be comfortable with what's shown. Mr. Jacques said he was fine with that.

Mr. Ostrosky officially closed the hearing. The Commission voted that they concurred with the Determination as presented.

**285-1318      Public Hearing regarding the Notice of Intent filed by Fragile, LLC for the construction of a 20,000 square foot warehouse/office building at 226 Cherry Street**

Mr. Polito abstained from the hearing, due to possible conflict of interest. Attending the hearing was Mike Scott – Waterman Design Associates.

Mr. Scott said in the upland area there are trenchboxes, equipment, construction materials for site construction, manholes, and grate rings, etc., and equipment in various states of repair. He said to the north of the upland area there's a wetland area, and the impoundment drains under the cart road and comes out the end of the paved access, where there is a culvert there today; and then it flows down the east side of the lot through a wetland system which then runs off to the south of Route 20.

Mr. Scott said the wetlands were delineated by Glenn Krevosky, Waterman Design located those flags and they are shown on the site plans with his flag numbers.

Mr. Scott said with exception of the cleared area in the center of the lot, there is a perimeter of woods that back up to the homes on Rockwell Drive; there is a buffer of woods adjacent to a building and the other buildings within the site. He commented all water drains across the site, north to south towards Route 20.

Mr. Scott explained the proposed project. He said Fragile is proposing to extend the existing paved driveway into the site across the existing cart path where there is a causeway into the wetland today, and install a 20,000 sq. ft. warehouse and office structure – about 17,000 sq. ft. of warehousing and 3,000 sq. ft. of office space.

Mr. Scott said they would be widening the existing cart road to 24 feet to be consistent with all the other access ways to the other sites within the development; there would be five foot shoulders on either side to allow for guard rails and then there would be retaining walls at the edge of that five feet. This would cause some wetland alteration.

Mr. Scott said in the site there is pavement around the building that allows access to the three loading areas, one on the south, two on the front. He said there is an embankment that falls away from the parking area to the east and towards the wetland, and then there is a gravel area to the south where a dumpster will be located. There is a gravel area to take some of the cleaner construction materials that are stored on the site and allow for stockpiling; it is his understanding that some of the equipment will be stored inside this structure.

Mr. Scott said the site is serviced by public water and sewer. He said all of the infrastructure that's out in the existing driveways within the industrial park will just be brought into the site – so sewer, gas, power, telecommunications will go within the limits of the driveway. He said there will be a sewer pump station in the building that would pump out to the sewer main for the site. Mr. Scott said the waterline would cause another temporary alteration of the wetland, and said the extension of the water main would be through the wetland to the site.

Mr. Scott said for the temporary wetland alteration they are proposing permanent replication of the wetland and that would be down to the south and the east of the parking and driveway area for the building and that's about 2800 sq. ft., so they are about 2:1 wetland replication for that area.

Mr. Scott noted that this plan has been shown to Mr. Stone and Mr. Perreault (Town Engineer) prior to their filing and he thinks they are fairly comfortable with the layout and in particular with the routing of this water line, which was not an issue with the Town Engineer.

Mr. Scott said regarding drainage, he said almost all of the flow from the area of development presently comes from the west to the east into either this northern portion of the wetland or the southern portion, in either case it all ends up flowing to the south and off-site. He said they are proposing a series of conventional closed drainage system, catch basins and manholes. He said one storm drain system captures water from the back half of the building and the northside routes it around the building to an SIS 102 (a subsurface infiltration system).

Mr. Scott said similarly, in the front of the building and the parking area in front of the building, there is a collection system that routes water to another infiltration system.

Mr. Scott said they did some inflow drainage calculations with the analog and demonstrated how the systems work in compliance with pre- and post- peak rates of run-off as well as water quality requirements for D.E.P.'s Stormwater Management Policy.

Mr. Scott said the plan has been reviewed by the Town Engineer, so they believe it is a viable plan from a lay-out and utility standpoint.

Mr. Jacques asked that if in terms of the edge of pavement, it looks like they are at a minimum of at least 30 feet away everywhere, except for the replication. Mr. Scott said that was right and said the replication is immediately adjoining the wetland. He said also with the entry drive, as soon as they could get away from the wetland, they did. He commented that the replication of the wetland is within 20 feet of the edge of pavement.

Mr. Ostrosky officially closed the hearing.

**285-1192      Public Hearing regarding the request for an Amended Order of Conditions  
for the construction of a single family home at 7 Turtle Creek Circle**

Attending the hearing were John Grenier – the engineer from J.M. Grenier Associates, Dan Nitsche – an engineer from Bay State Environmental, and Anthony and Margaret Saito – the homeowners.

Mr. Grenier said Mr. Nitsche was part of the project when this proposal was originally brought before the Commission for an Order of Conditions.

Mr. Grenier said the situation the Saitos have run in to is as follows:

At the discussion when the hearing was closed back in December of 2002, there were some discussions as to what types of monumentation should be put in the back yard for this project. He said it was their understanding that it was the Commission's wish that they incorporate concrete monuments as a delineation of limit of disturbance for this project. He said this plan was revised to incorporate these monuments, and said there is a detail for it and the location of these monuments.

Mr. Grenier said it was incorporated into the Order of Conditions as Item #39, that there was to be a stone wall constructed as part of this. He said whether there was some miscommunication or there was something that got lost in the translation – with the Commission or with them – they've been trying to figure out the miscommunication.

Mr. Grenier said where it takes this today, is the Saitos are moved in to their house, they have a nice lawn area, they have a deck constructed, they have incorporated these monuments, and when they submitted for a Certificate of Compliance, this issue of this outstanding Item #39 came up.

Mr. Grenier said what they are proposing is: they understand that there is an issue down the road for the next owner for compliance. He said there is monumentation out there and what they have come up with as an extra measure to incorporate an exhibit plan, which can be attached with the Deed for this property, so that the next owner or for anybody purchasing this property, this plan is attached with the Deed so that they understand that is what the monuments are for, and this is the limit of disturbance.

Mr. Ostrosky said, just going back in time when the Commission approved this, disturbance means no grass, no cutting trees, as the homeowners said they liked trees and there was no interest in cutting trees, etc. He said the Commission felt they could live with the plan as presented contingent on that defined border. He commented that there are other homes there with the stone wall. Mr. Stone said the two lots to the right have the stone walls and the other lot has a detention pond behind it.

Mr. Ostrosky said he understands what is being said about filing the deed, but people don't understand the definition of disturbance under the Wetlands Protection Act and the Riverfront Act specifically. He said that's no alteration, no planting of grass, no changing grade, no tree cutting, and the Commission felt it was critical to put that in. He stated that they are in an outer riparian zone.

Mr. Nitsche said he's had good experience with this registry exhibit where the next person who buys it has a graphical representation of what the bounds mean; there is an as-built of the house.

Mr. Ostrosky said he understood that, but stated that the Commission put this condition in regularly with the other lots that they have been approving.

Mr. Nitzsche said they never recalled discussing a wall. He said the detail in the overall plan shows a full earthen retaining wall for the driveway, but not to be put in the back. He said he's not disagreeing that use of walls is a good visual/physical barrier, but in this case that's not what was proposed. Mr. Ostrosky commented that they have the ability to appeal an Order; the Commission gives an Order of Conditions, somebody can oppose it and they can oppose what is commissioned, and it's under the terms of 10-day appeal period. He noted the wall was in there and no one came forward in the appeal period. Mr. Nitzsche said a wall wasn't ever discussed so they didn't look for it in the Order.

Mr. Ostrosky commented every meeting that is closed on this night, there will be discussion following it, and they come up with Conditions; there are times that they will come up with a Condition after the hearing is closed.

Mr. Jacques asked Mr. Saito to comment. Mr. Saito said the Commission is exactly right about the trees, stating they really like the trees around the house. He said they were really grateful about the bounds; one is the deck itself is 52 feet wide and 15 feet deep, so they can entertain with their family and friends on the deck; and secondly they did not do a walk-out basement; and they wanted the eight windows. He said when they sat with the Commission two years ago, they were very grateful that the bounds were there because, when their son looks out in the basement, out the eight windows, he'll see the natural trees and everything else, and not a wall there that would block his view.

Mr. Jacques asked if the reason they don't want the wall is for the view. Mr. Ostrosky said they are losing maybe three feet of grade, so a shallow wall should be able to be constructed. He said he didn't think there would be a site obstruction.

Mr. Nitzsche asked if they could offer a split rail fence. Mr. Ostrosky said that wouldn't be a permanent structure. He said all the Commission is asking and it was in the Order, is for this wall. He commented that they can use their discretion on the type of wall, it doesn't have to be an eye sore, and it's not going to obstruct visibility.

Mr. Jacques asked to see pictures of the back of the house, and commented that putting this condition in is entirely consistent with the deliberations that the Commission makes after closing a public hearing and they vote on these things.

Mrs. Saito commented that they were the last people on the agenda that night, and they did stay to listen to the Commission's deliberations, and they told Mr. Grenier the next day that he needed to submit a revised plan, and she said she believes that was the only public discussion regarding their property. She said at the time they were living in Framingham and they wanted to be sure everything was set.

Mr. Jacques commented that he didn't find the argument about the view very persuasive to himself, as he looks at the level of the windows. Mr. Saito commented that trees are all the way around the house in between the bounds and they don't want people just coming over and trampling all over the vegetation and damaging and nicking the trees in any way and having them die.

Mr. Jacques commented said it seems that the Saitos have been very faithful to those bounds.

Mr. Grenier said to go in there now would mean bringing in machinery; it would be tight to get a bobcat. He said they can't get in from the driveway side. He said Mr. Saito has marked out where there are trees, stumps, boulders, etc., and said obviously they couldn't get in through the driveway side, as there is a retaining wall there. He said to go in after the fact, there would be some disturbance, a tree or two may have to be cut down. Mr. Ostrosky said if they wanted to they could ere on the side of conservativeness and go around the tree; they shouldn't have to take a tree out.

Mr. Ostrosky listed several ways they can handle the wall. Mr. Nitzsche said to be consistent with the neighborhood, there are two-foot walls out that earthen retaining, they are just free-standing walls. He said he didn't have a problem with that. Mr. Polito said maybe go as high as the mound that is sticking out of the ground.

Mrs. Saito continued to express frustration about how they got from just having the monuments to now needing the wall. Mr. Ostrosky said it's important to read the Order of Conditions during the appeal period time. Mr. and Mrs. Saito said they never got a copy of the Order, as it went to the applicant. They didn't actually get to read it until last month.

Mr. Nitzsche commented that there is fencing that are fences that have concrete posts with wooden slats, but the posts remain. He said he is really trying to avoid the work that comes with a wall. Mr. Ostrosky said when the Commission is looking at buffer zone issues and they are starting to get too close; and they feel the encroachment, they sometimes go with the fence and the arborvitae. He said this area is supposed to be no disturbance, such as not planting grass. He said that's why in Riverfront it's so important that it really be something very, very permanent.

The Commission and the Saitos agreed to build a 2 foot high x 1-1/2 foot wall.

Mr. Ostrosky officially closed the hearing.

#### **4. New Business**

##### **a. Discussed/Signed Draft Orders of Conditions and Requests for Determination of Applicability**

**285-1248 360 Hartford Turnpike** – continued

**285-1264 Roberts Street** – voted to deny the request for Order of Conditions with respect to the construction of a culvert at Roberts Street because of insufficient information and there was no follow up on the initial public hearing

**285-1296 731-735 Boston Turnpike** – (Mr. Ostrosky and Mrs. Banks abstained from the vote) – conditionally approved

**285-1299 824 Hartford Turnpike** – (Mr. Ostrosky and Mrs. Banks abstained from the vote) – denied the application for Order of Conditions because of insufficient area to put the proposed size building, lack 30-foot setback, filling just to create a bigger building, the replication is only 1:1, still items left open and not addressed such as if there will be a need for a septic system, and the area is just not suited for the proposed use



**4. New Business (Cont'd)**

**a. Discussed/Signed Draft Orders of Conditions and Requests for Determination of Applicability (Cont'd)**

- 285-1304 Lot 2, 16 Brook Street** – denied the application for Order of Conditions (on a vote of 3-2), because proposed activities would be detrimental to the health of the wetland area, at 15 feet away from wetland area, and a three-bedroom home
- 285-1311 870-890 Hartford Turnpike** – continued
- 285-1308 550 South Street** – continued
- 285-1317 Adams Farm** – continued
- 285-1316 46 Everett Avenue** – continued
- RDA 0-16 Nelson Point Road** – The Commission voted that they concurred with the Determination
- 285-1318 226 Cherry Street** – (Mr. Polito abstained from the vote) – Conditionally approved
- 285-1192 7 Turtle Creek Circle** – conditionally approved

**5. Old Business**

**a. Discussed/Signed Certificates of Compliance**

- 285-1259 St. John's High School**
- 285-245 Hills Farm Estates Lot 126**
- 285-666 Lot 8 Old Stolpe Farm**
- 285-632 Lot 8 Old Stolpe Farm**

**b. Discussed/Signed Enforcement Order**

**133 Spring Street**

Mr. Stone said this Enforcement Order is for the Cariglia property where they had cut the trees down and the Commission gave them until December 7, 2004 to file a Notice of Intent. As of this meeting they have filed.

**6. Correspondence**

Respectfully Submitted,

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*Annette W. Rebovich*